

INFORMATION LETTER

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NATIONAL CANNERS ASSOCIATION

For Members
Only

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WAGE-HOUR PRESS RELEASE ON HOURS EXEMPTION REPRODUCED

Proposal to Receive Applications from Cannery Explained in Letter

The Wage and Hour Division of the U. S. Department of Labor issued on Monday a press release announcing that Colonel Fleming, administrator of the Division, would receive applications from the fresh fruit and vegetable industries for classification as industries of a seasonal nature, under Section 7(b)(3) of the Fair Labor Standards Act. The announcement explained that if canning of fresh fruits and vegetables is found to be an industry of a "seasonal nature", then such canners will be granted, in addition to the 14 weeks of exemption from the hours requirements of the Act they now enjoy, a second exemption of 14 weeks. The exemption would not affect the minimum wage requirements of the wage and hour law.

An industry found to be "seasonal" by the administrator is granted an exemption from the requirement to pay overtime for a period or periods of 14 weeks in the aggregate each year. Unlike the total hours exemption for 14 weeks each year specifically granted canners of perishable or seasonal fruits and vegetables in Section 7(c) of the Act, the additional exemption under Section 7(b)(3) would be limited to a workday of 12 hours and a workweek of 56 hours.

Walter Graefe, vice chairman of the Association's Legislative Committee, sent a letter on June 5 to all secretaries of State and regional canners' associations and to other canner representatives who testified at the recent "area of production" hearings held by the Wage and Hour Division. In this letter, Mr. Graefe explained the procedure followed by the Division and the significance of the announcement. Included with the letter were the text of the press release announcing Colonel Fleming's intention to receive applications from canners, and the official text of the Wage and Hour Division's regulations governing the determination of an industry of a "seasonal nature".

These three documents are reproduced below for the information of all members of the Association:

To Secretaries of State and Regional Cannery Associations

We are enclosing an announcement of Administrator Fleming to the effect that he will receive applications from the fresh fruit and vegetable industries for classification as industries of a seasonal nature under Section 7(b)(3) of the Fair Labor Standards Act.

The precise nature of the exemption for which the administrator will receive an application should be understood. Under Section 13(a)(10) of the Fair Labor Standards Act, canners operating within the "area of production" are exempt from both the hour and wage provisions of the law. The present definition of the area of production is being reconsidered and recently testimony was presented to the Administrator in a series of hearings with the object of per-

mitting a broadening of such definition. No decision on this reconsideration of the definition of "area of production" has been announced. Section 7(c) of the law affords to canners of seasonal or perishable fruits and vegetables an unlimited hours exemption for any factory during 14 weeks in the aggregate in any calendar year. Section 7(b)(3) provides that in any industry which the administrator finds to be seasonal there may be a limited hours exemption for 14 weeks, but overtime must be paid after 12 hours in any one day or 56 hours in any one week.

During the course of the hearings on the "area of production" the presiding officer repeatedly suggested that instead

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Cherry Definition Modified by Amendment

The public hearing requested by a group of canners of pitted red cherries was held June 5, 1940. The proposals were summarized in the INFORMATION LETTER of May 11, page 6191. The group of canners presented evidence at the hearing to show that the word "tart" should be permitted as a synonym for the word "sour" on the labels of this type of canned cherry.

The canners also asked for a clarification of the method used for determining the pits in pitted cherries.

There was little opposition to the proposals and the report of the presiding officer will be submitted soon to the Secretary of Agriculture.

Asparagus Definition Corrected by Amendment

A public hearing was held on June 3, 1940, to modify the requirements in the definition for asparagus with respect to the lengths of stalks or spears, tips, and cuts. The proposals considered were published in the INFORMATION LETTER of May 11, page 6191.

The corrective action was necessary to permit the continuation of the canning of these asparagus items in the usual size of containers. The original lengths specified were based on the over-all height of the cans instead of the internal height of the processed cans.

The evidence was presented by one brief and by one witness. The presiding officer said the correction would be made as soon as possible.

Food-Drug Transfer Effective on July 1

Government Reorganization Plans 3 and 4 will go into effect on July 1 under the provisions of a resolution passed by Congress and signed by the President on Tuesday. Reorganization Plans 3 and 4 provide for the consolidation of the Bureau of Fisheries and the Bureau of Biological Survey, and for the transfer of the Food and Drug Administration from the Department of Agriculture to the Federal Security Agency.

New Fish and Wildlife Service to Replace Bureau of Fisheries Beginning July 1

A new Federal agency to be known as the Fish and Wildlife Service will come into being on July 1, 1940, taking the place of the Bureau of Fisheries and the Bureau of Biological Survey. The new agency will be created under the provisions of the President's Reorganization Plan No. 3 and will be a part of the Department of the Interior.

The Fish and Wildlife Service, Secretary of Interior Ickes has announced, will place the two former Bureaus under a coordinated administration. Dr. Ira N. Gabrielson, chief of the Biological Survey, will be director of the new Service. Charles E. Jackson, acting commissioner of Fisheries and W. C. Henderson, associate chief of the Biological Survey will be assistant directors.

Law enforcement activities were described by Secretary Ickes as an example of the benefits of the merger of the two bureaus. The larger and more widely distributed field personnel maintained by the Biological Survey to enforce the Migratory Bird Treaty Act will make possible more effective administration and enforcement of the Federal Act protecting black bass, and personnel of the former Bureau of Fisheries will be able to assist in enforcing the laws protecting migratory birds. The consolidation of the two agencies will also make possible the development of a coordinated program relating to the various Federal laws for the protection of fisheries, aquatic mammals, and other wildlife resources of Alaska. Wildlife agents of the Alaska Game Commission may be designated to enforce the fisheries laws and regulations and those engaged primarily in the protection of fishes and aquatic mammals may be designated to enforce the provisions of the Alaska Game Law.

Other joint uses of the combined personnel and facilities of the two former bureaus are expected to make more effective such activities as the seasonal collection of market news data and other statistics relating to commercial fishes, the conduct of the annual migratory waterfowl inventory, observation of fishing conditions and needs for restocking, collection of widely representative material for study purposes, construction work at refuges and fish hatcheries, emergency uses of boats, airplanes, and automobiles, and the many studies involving both fish and other wildlife.

Great advantages were seen in the use for many purposes of areas formerly administered separately. Marine biological stations and fish production areas will be used for studies of aquatic plants useful to birds and for investigations of predatory birds and mammals in relation to fishes. Wildlife refuges will be used for fish studies and restocking and the results of such studies are expected to be of mutual advantage.

Dr. Ira N. Gabrielson, who will be director of the Fish and Wildlife Service, has had long experience in wildlife administration. Since November 15, 1935, he has been chief of the Bureau of Biological Survey, the organization in which he has spent all but three of the years since he was graduated from Morningside College, Sioux City, Iowa, in 1912.

Assistant Director Charles E. Jackson has been associated with the Bureau of Fisheries since May 1933. At that time he was appointed deputy commissioner of the Bureau, and he has served as acting commissioner since the resignation of the former commissioner in January 1939. A native of Columbia, South Carolina, he was educated there. In his

new post, he will be responsible for the direction of fisheries research, economic conservation, regulatory work in the fisheries field and related duties. Mr. Jackson is a member of the International Pacific Salmon Fisheries Commission and the International Fisheries Commission.

"Reasonable Cost" of Furnishing Housing

Canners who provide housing facilities for their employees may find of interest the provisions of a stipulation that was made a part of the judgment in a case that had been brought against the Atlantic Coast Line Railroad by the Wage and Hour Division. By the terms of the Fair Labor Standards Act, employers may consider as part of the wage of an employee, the "reasonable cost" of furnishing board, lodging, or other facilities, if customarily furnished to the employee. Regulations promulgated by the Wage and Hour Division provide that "reasonable cost does not include a profit to the employer or to any affiliated person."

In the stipulation that was made a part of the judgment against the Atlantic Coast Line Railroad, the "reasonable cost" per month for certain housing facilities voluntarily accepted and actually lived in by employees was found to be as follows:

| Type of dwelling | Number of rooms | Monthly rental for entire dwelling |
|--|-----------------|------------------------------------|
| Houses and housing space in depot | 1 | \$2.00 |
| | 2 | 4.00 |
| | 3 | 5.00 |
| | 4 | 6.00 |
| | 5 | 7.50 |
| | 6 | 8.00 |
| Single boxcar or one-half of double boxcar | | 2.00 |
| Double boxcar | | 4.00 |

Where two or more employees occupy one dwelling, each employee shall be required to pay his proportionate share of the rental charge for the entire dwelling.

The judgment further provides that no deduction shall be made for any room less than 8 feet, 6 inches in width and 9 feet, 6 inches in length, except that a kitchen may measure 7 feet, 6 inches in width by 9 feet in length.

Another provision in the judgment is that no deduction may be made for housing unless sanitary facilities and water supply are reasonably accessible and are kept in a reasonable state of repair.

House Report on Alaska Fisheries Investigation

The House Committee on Merchant Marine and Fisheries, through Chairman Bland, filed with the House on June 5 a preliminary report of its investigation of the fisheries of Alaska conducted last summer. The preliminary report (House Report No. 2379, 76th Congress) contains a summary of the study made by the Committee and recommendations dealing with the following subjects: herring fisheries, use of traps, problem of labor in Alaska, penal provisions for unlawful fishing, change in "Sunday closing law", early issuance of annual regulations, proposed Alaska Fisheries Commission, offshore fishing by foreign nationals, floating canneries, and a number of other matters. In the report the Committee states that a subsequent report may be made before January, 1941.

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of broadening the "area of production" definition—which would afford exemption from both hours and wages—it might prove to be administratively possible to give to some canners an additional 14 weeks, but require payment of the minimum wage. Consequently, there is undoubtedly some administrative relationship between the reconsideration of the "area of production" definition and the enclosed announcement that applications will be received under Section 7(b) (3).

Whether an application for this type of partial relief should be made will have to be determined by each State association in the light of present conditions and the possible effect of such application upon the pending reconsideration of the area of production definition.

Where it is decided to file such application the form, contents, and procedure to be followed is governed by Part 526 of the regulations relating to Section 7(b) (3) of the statute. A copy of these regulations is enclosed.

For the purpose of explaining this situation to your members, the following points, in addition to the foregoing, should be noted: The proposed exemption will relate to *hours alone* and will not have any effect on the minimum wage of 30 cents which must be paid. (Where a cannery is already exempt under the "area of production" definition—resulting in an exemption from both hours and wages under Section 13(a) (10) of the Act—this new exemption under Section 7(b) (3), if granted, will have no effect.) It is important to note also that during the second group of 14 weeks, overtime will have to be paid after 12 hours in any day or after 56 hours in any week. The method of determining whether a particular workweek need be counted against the exemption will be exactly the same. Presumably, the 14 weeks with unlimited hours permitted under Section 7(c) may first be utilized and then the workweeks permitted under the exemption under Section 7(b) (3) can be taken.

The announcement of the administrator indicates that his legal advisers have interpreted the law to permit *both* the exemption under Section 7(c) and the somewhat more limited exemption under Section 7(b) (3) to be given to the same employers. Some lawyers have expressed doubt as to the correctness of this interpretation and it may well be that even though the action of the administrator—when, as and if taken—will preclude prosecution by the government, there is always the possibility that some group of employees in an action for wages may argue that the administrator's interpretation is incorrect.

Any further inquiries concerning these suggestions may be directed to the Association and will receive prompt consideration.

Applications for Seasonal Exemptions from Canners and Packers Will Be Considered

The Wage and Hour Division will entertain applications for an additional seasonal exemption of the canning, packing, etc., of fresh fruits and vegetables. Administrator Philip B. Fleming announced today (June 3).

Colonel Fleming stated that on March 18 he began an investigation of the effect which the definition of area of production has had upon the fruit and vegetable industries—canning or packing. The first step was a series of informal conferences in the actual scene of operations in the field. This has been followed by formal hearings held in Washington. Analysis of the records and a decision on redefinition of area of production will take some further time. However,

it has already been reported to Colonel Fleming that many members of the industries state that their urgent need is for an additional 14 workweeks overtime exemption beyond the 14 workweeks overtime exemption allowed by Section 7(c) of the Act.

It appears, therefore, that the seasonal problem is closely related to the area of production problem. In view of this, Colonel Fleming expressed his willingness to receive applications from the fresh fruit and vegetable industries for classification as industries of a seasonal nature, under Section 7(b) (3) of the Act. If such applications are received, they will be promptly set down for hearing and the decision will be made on the evidence adduced at the hearing.

Colonel Fleming further explained that if the evidence at such a hearing shows that the packing or canning of fresh fruits and vegetables is of a seasonal nature, then the industries will have, in addition to the 14 workweeks exemption they now enjoy, a second 14 workweeks exemption with freedom from overtime during the latter period up to 12 hours per day and 56 hours per week. This does not affect the requirement to pay at least 30 cents an hour.

Regulations

Applicable to Industries of a Seasonal Nature Pursuant to Section 7(b) (3) of The Fair Labor Standards Act of 1938

Section 526.1.—Statutory provisions.

"Section 7: (a) No employer shall, except as otherwise provided in this section, employ any of his employees who is engaged in commerce or in the production of goods for commerce—

- (1) for a workweek longer than 44 hours during the first year from the effective date of this section,
- (2) for a workweek longer than 42 hours during the second year from such date, or
- (3) for a workweek longer than 40 hours after the expiration of the second year from such date,

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(b) No employer shall be deemed to have violated subsection (a) by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

* * * * *

(3) for a period or periods of not more than 14 workweeks in the aggregate in any calendar year in an industry found by the Administrator to be of a seasonal nature, and if such employee receives compensation for employment in excess of 12 hours in any workday, or for employment in excess of 56 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed."

Section 526.2.—Meaning of "Industry".

"Industry" means a trade, business, industry, or branch thereof, or group of industries in which individuals are gainfully employed.

Section 526.3.—Industry to which the exemption is applicable.

The exemption for an industry of a seasonal nature is applicable to an industry which both:

(a) Engages in the handling, extracting or processing of materials during a season or seasons occurring in a regularly, annually recurring part or parts of the year; and

(b) ceases production, apart from work such as maintenance, repair, clerical and sales work, in the remainder of the year because of the fact that, owing to climate or other natural conditions, the materials handled, extracted, or processed, in the form in which such materials are handled, extracted or processed, are not available in the remainder of the year.

Section 526.4.—Application for exemption.

Any industry, or employer, or employer group therein, may make written application to the Administrator for exemption. The application shall state the facts and reasons relied upon to show that the employer or employer group making application is a part or the whole of an industry which meets the conditions set forth in section 526.3. Preferential consideration will be given to applications filed by groups or organizations which are deemed to be representative of the interests of a whole industry or branch thereof.

Section 526.5.—Procedure upon application for exemption.

(a) Upon consideration of the facts and reasons stated in an application, the Administrator may, without further proceedings, deny the application on the ground that it fails to allege facts entitling the industry to an exemption as a seasonal industry.

(b) Upon consideration of the facts and reasons stated in an application, and upon such further investigation as may appear appropriate, the Administrator may either (i) set the application for hearing before the Administrator or his authorized representative; or (ii) notify the applicant of, and publish in the Federal Register and by general press release, a preliminary determination that a *prima facie* case for the granting of an exemption has been shown. In the event that the Administrator determines that a *prima facie* case for exemption has been shown, the Administrator for 15 days following the publication of his preliminary determination will receive objection to the granting of the exemption and request for hearing from any person interested, including but not limited to employees, employee groups, and employee labor organizations, within the industry claimed to be exempt. Upon receipt of objection and request for hearing, the Administrator will set the application for hearing before the Administrator or an authorized representative. If no objection and request for hearing is received within 15 days, the Administrator will make a finding upon the *prima facie* case. The exemption shall become effective upon publication of the finding in the Federal Register.

Section 526.6.—Procedure where application for exemption set for hearing.

(a) One combined hearing may be held on two or more applications presenting related issues of fact or law.

(b) A notice of the time, place, and scope of a hearing upon an application will be published in the Federal Register and made public by a general press release at least 5 days before the date of such hearing.

(c) All persons interested, including employees, employee groups, employee labor organizations, employers, employer groups, and trade associations, within the industry affected, and designated subordinates of the Administrator, will be afforded an opportunity to present evidence and to be heard.

(d) The Administrator or his authorized representative may cause to be brought before him at such hearing any witness whose testimony he deems material to the matters in issue.

(e) The Administrator or his authorized representative, as the case may be, will make his finding upon the record made at the hearing. If the finding, made by the Administrator himself, is that the industry in question is of a seasonal nature within the meaning of section 526.3, the exemption shall become effective upon publication of the finding in the Federal Register. If the finding is by an authorized representative of the Administrator, the further procedure set forth in section 526.7 is applicable.

Section 526.7.—Petition for review of finding by authorized representative.

Where hearing is had before an authorized representative of the Administrator, any person aggrieved by the finding of such representative may within 15 days after the action of such representative file a petition with the Administrator requesting a review by the Administrator of the action of the representative upon the record of hearing before the representative. If the request for review is granted, all interested parties will be afforded an opportunity to be heard either in support of, or in opposition to, the matters prayed for in the petition. A notice of the time and place and scope of the hearing will be published in the Federal Register and made public by a general press release at least 5 days before the date of such hearing.

If no such petition for review is filed within 15 days, or if such petition is filed and subsequently is denied by the Administrator, the finding of the authorized representative shall become final. If such finding is that the industry in question is of a seasonal nature within the meaning of section 526.3, the exemption shall become effective upon publication of the finding in the Federal Register.

If a petition for review is granted and upon hearing the Administrator confirms a finding by the representative that the industry is of a seasonal nature within the meaning of section 526.3, or if the Administrator, rejecting a finding by the representative to the contrary, finds on the record that the industry is of a seasonal nature within the meaning of section 526.3, then the exemption shall become effective upon publication of the Administrator's finding in the Federal Register.

Fruit and Vegetable Market Competition

Carlot Shipments as Reported to the Agricultural Marketing Service by Common Carriers

Carlot shipments of major fresh fruits and vegetables, competing directly with canned foods, are still running less than they were during the corresponding period in 1939. Domestic citrus shipments were over 1,000 carloads less during the week ending June 1, 1940, than during the corresponding week of 1939.

The following table, compiled from statistics of the Agricultural Marketing Service, gives detailed comparisons of carlot shipments on certain dates of selected vegetables and fruits:

| VEGETABLES | Week ending— | | | Season total to— | |
|-----------------------------------|--------------|--------------|--------------|------------------|--------------|
| | June 1, 1939 | June 1, 1940 | May 25, 1940 | June 1, 1939 | June 1, 1940 |
| Beans, snap and lima..... | 209 | 145 | 135 | 6,206 | 3,547 |
| Tomatoes..... | 1,580 | 1,500 | 1,338 | 13,166 | 3,451 |
| Green peas..... | 188 | 141 | 204 | 3,663 | 2,612 |
| Spinach..... | 1 | 2 | 7 | 6,117 | 5,555 |
| Others: | | | | | |
| Domestic, competing directly..... | 2,768 | 2,087 | 1,308 | 97,708 | 92,543 |
| Imports competing directly..... | 0 | 1 | 3 | 7 | 1 |
| Imports competing indirectly..... | 1 | 2 | 3 | 2,281 | 2,618 |
| FRUITS | | | | | |
| Citrus, domestic..... | 3,736 | 2,680 | 2,000 | 136,438 | 112,638 |
| Imports..... | 0 | 8 | 7 | 77 | 97 |
| Others, domestic..... | 1,221 | 739 | 634 | 26,246 | 21,254 |

Insecticide Association Charged With Price Fixing By Federal Trade Commission

An unlawful price fixing conspiracy in the sale of chemicals, fertilizers, insecticides, fungicides and related items, is alleged in a complaint issued by the Federal Trade Commission against the Agricultural Insecticide & Fungicide Association, New York, its officers, directors and members, and against five cooperating corporations, the Allegheny Chemical Corporation, Reading, Pa.; Ansbacher-Siegle Corporation, Brooklyn, and General Chemical Company, Phelps Dodge Refining Corporation, and Tennessee Corporation, all of New York.

Among the products manufactured and distributed by the 26 respondent member companies and three of the five cooperating corporations are chemicals, fertilizers, various types of insecticides and fungicides and related items. Two of the cooperating companies, Phelps Dodge Refining Corporation and Tennessee Corporation, manufacture and distribute monohydrated copper sulphate and certain other copper by-products and specialties which are used in the manufacture of certain insecticides and fungicides.

The press release of the Federal Trade Commission states:

"It is alleged that on or about October 1, 1936, the respondent association and member and cooperating companies entered into an understanding, agreement or conspiracy among themselves to restrain competition in the sale of their products by agreeing to fix and maintain uniform prices, terms and discounts and to cooperate with each other in maintaining this program.

"Pursuant to these arrangements, it is alleged, the respondent association acted as a clearing house for exchange of sales and price information submitted by members; association members held regular meetings at which trade policies and prices were established; the association compiled and distributed to the respondent members and cooperating companies white lists or 'Distributor Guides' containing names of dealers to whom to sell on a wholesale basis to the exclusion of other dealers, and the association assisted in policing the respondent members and the cooperating respondents in enforcing the use of the white lists.

"In further pursuance of the understandings and agreements, it is alleged, the association compiled and distributed to members and cooperating respondents lists of dealers to be recognized as retail dealers to the exclusion of other dealers, and maintained an open price filing system whereby it relayed to the respondent members and cooperating companies advance notice of immediate and future price rises and declines.

"It is alleged that results of these activities have been the suppression of competition in the interstate sale of the respondents' products; empowering the respondents to control the market and enhance prices, and a tendency to create a monopoly in the respondents, all in violation of the Federal Trade Commission Act."

Weights Officials Propose New Can-Size Bill

Standardization of food containers was one of the principal subjects discussed at the 30th National Conference on Weights and Measures held in Washington, D. C., on June 6, 7 and 8, 1940, sponsored by the National Association of Weights and Measures Officials. This association has long been interested in standardization of cans and packages, and has secured introduction of its proposals into Congress. The

Sauthoff bill was in large part drafted by the chairman of its standardization committee.

This group has continuously supported legislation designed to set up standards for can sizes. The association's proposals have, however, gone through a number of changes. At the meeting on June 6, a new bill was proposed for legislation. The proposal was presented by the chairman of the committee on standardization of containers, Alex Pisciotta of New York, and was adopted by the association. The legislative committee of the association plans to secure a sponsor for this bill and have it introduced at the next session of Congress.

Review of Seasonal Exemption for Apple Packing

A review of the determination that the cold storage of apples in the "Appalachian area" is an industry of a seasonal nature, and thereby partially exempt from the hours provision of the Fair Labor Standards Act, was granted by the Wage and Hour Division on May 23.

The International Longshoreman's and Warehouseman's Union petitioned for a review of the findings and determinations made by the Division on April 18 and reported in the INFORMATION LETTER of April 20.

In granting a review of these findings and determination, the Wage and Hour Division announced it would receive briefs from interested parties either in support of, or in opposition to, the determination, provided that they are filed in triplicate with the Administrator of the Wage and Hour Division before the close of business on June 15, 1940.

House Considers Amendments to Wagner Act

The House on June 4 agreed to consider amendments to the National Labor Relations Act. This action was taken by a vote of 292 to 106 on a resolution reported by the Rules Committee making the Smith and the Norton bills a special order of business. Debate of the two amending bills began on Thursday but had not been concluded when the INFORMATION LETTER went to press. The provisions of the Norton bill containing the recommendations of the House Labor Committee were noted in the LETTER of April 6. The Smith bill, containing the suggestions of the special House committee investigating the National Labor Relations Board, was summarized in the LETTER of March 9.

Prominent Wisconsin Canner Dies

J. C. Coxe of Whitewater, Wisc., died June 4 at his home. Funeral service was held June 6. Mr. Coxe had been actively engaged in the canning business in Wisconsin since 1913 and had been president of the Whitewater Canning Co., and the Humbird Canning Co. His son, G. J. Coxe, is manager of these companies at present.

Hearings on Fiber Box Containers Cancelled

Hearings called recently by the Classification Simplification Committee of the Association of American Railways to consider proposed changes in specifications for fiber box containers for shipping canned foods have been cancelled due to "economic conditions created by the war in Europe". Hearings were to have been held June 4 in New York, June 11 at Chicago, and June 18 at San Francisco.

PEA CROP CONDITION REPORT FOR WEEK ENDING JUNE 6

The pea crop has developed very rapidly during the past week. High temperatures in some districts have forced blooming and damaged crop to some extent. The Maryland canners now packing peas fear damage from excessive high temperatures of the last four days.

MAINE—Planting has been completed. Some peas are coming up but not enough to make report on stand or condition.

NEW YORK I—Peas, although late in this district, are growing very fast. No aphid infestation. Owing to very heavy rains during the past week, some fields have wet spots. Early peas just began to bloom.

NEW YORK II—Peas have been growing very fast during past week. Rainfall has been excessive during the week.

NEW YORK III—Stand of early and late Sweets in this district ranges from 85 to 90 per cent. Temperatures and rainfall have been favorable to excellent growth. Some low fields are too wet now but may not damage the peas. There is no aphid infestation. First bloom of Alaskas June 1, early Sweets June 3. Full bloom Alaskas June 4. Packing will probably begin about June 24. One reporter estimates yields at about 90 cases per acre.

NEW YORK IV—All peas are planted in this district. Stands range from 90 per cent for Alaskas down to 80 per cent for late Sweets. Growth has been favorable. No aphid infestation.

MIDDLE ATLANTIC II—Packing in full swing in this district. Yields on some acreages are not turning out as large as expected. Some canners report short pods. On cutting peas it developed that a number of pods near the ground had rotted. There is a heavy infestation of aphids in most fields but they have been held in control fairly well. Quality of peas packed to June 7 has been well above average. Yields are ranging from 80 to 90 cases and may run higher, depending upon weather conditions during the coming week.

MIDDLE ATLANTIC III—There has been no packing in this district up to June 7. A few acres will probably be packed June 8 with regular packing starting next week. Canners estimate probable yields of Alaskas at 75 cases per acre. This is below last year's yield, largely because of poor fill of pods. Growth of vines excellent but pods are short.

OHIO—Peas showing fast heavy growth but no aphid infestation. First bloom Alaskas in southern part May 20, central—May 25, northern—May 30. Set of pods fair with about 3 or 4 to the vine. Fill indicates from 70 to 75 cases per acre for both Alaskas and late Sweets. Late Sweets in northern acreage have suffered some from excessive rain, some fields showing weeds.

INDIANA—Four days of the past week were cool with showers. Three days, however, had temperatures of 85 degrees. No aphid infestation. Growth has been satisfactory. Expect to start packing June 8.

ILLINOIS—Stands of all varieties are excellent and growth heavy. Fields are clean with no aphid infestation except a few in the late Sweets, which may necessitate control measures. First bloom Alaskas May 21, late Sweets June 5. In northern part Alaskas started blooming May 31. Set of pods per vine about 3 to 4. Rainfall has been below aver-

age for past 60 days. Sub-soil moisture still below normal.

MICHIGAN—Stand of early and late Sweets about 90 per cent. Growth of vines fair considering the hot, dry weather. Temperatures have exceeded 75 for three or four days of the week. Alaskas began blooming June 4.

WISCONSIN I—Growth very satisfactory. Temperatures have been very cool during the week. No aphid infestation. Peas show good color.

WISCONSIN II—Hot weather during week has brought on blossoming. Alaskas began blooming from the first to the third of June. No evidence of injury to crop, however. Although moisture adequate at present, rains will be needed soon. More than normal rain will be required to produce an average crop this year because of lack of sub-soil moisture. Packing will start about June 24.

WISCONSIN III—First planting Alaskas in full bloom on June 7. Hot weather Sunday through Wednesday stimulated growth of plants but no apparent damage as yet. Slight aphid infestation. Ground is getting very hard on fields planted before the snow. Rain is needed on these fields. Early Alaskas look poorest.

WISCONSIN IV—Stands of all varieties range from 90 to 95 per cent. Growth of vines satisfactory with no aphid infestation. A few blossoms showing on early Alaskas June 7. Temperatures from 80 to 85 degrees. Some water damage noted in low fields.

WISCONSIN V—Alaskas in full bloom June first with heavy setting of pods. Growing conditions have been ideal except for about 48 consecutive hours of over 75 degrees. Highest temperatures about 90 degrees.

MINNESOTA—Stands and growth of vines very good for both Alaskas and late Sweets. No aphid infestation. First bloom Alaskas May 28 to June 2; full bloom May 30 to June 5. Pods setting from 3 to 5 to the vine. One reporter estimates 55 cases per acre for Alaskas and 80 for late Sweets. Temperatures for three days during the week were above 75 degrees. Eighteen hours resulting in two inches of rainfall brought temperatures down.

IOWA—Alaskas in full bloom May 31. Three days of temperatures above 75 degrees. Light showers have fallen during the week but need more rain for normal crop. A few fields are weedy.

COLORADO—First bloom Alaskas May 21, early Sweets June 1. Temperatures have been about normal during the week but rain is needed.

UTAH—Growth of vines about average with slight aphid infestation in both early and late Sweets. Early Sweets in full bloom on May 25, late Sweets June 5. Set of pods about 5 per vine with fill 6 to 8 to the pod. Expect to start packing early Sweets June 5. Reporters' estimates of yields on early Sweets range from 60 to 90 cases; on late Sweets 110 to 135 cases per acre. Rain on June 4 came too late for early Sweets but just right for late Sweets. High temperatures reaching as high as 99 degrees one day forced early bloom on early Sweets which has definitely cut yields.

WYOMING—Late Sweets show 85 to 90 per cent stand with about 6 inches of growth on vines. No aphid infestation. No damage from hot weather.

WASHINGTON-OREGON I—Expect to start packing the first plantings of late Sweets about June 10 or 11. Slight aphid

infestation. Dusting continuing for weevil. There has been very little rain during the week. Continuous hours of temperatures above 75 degrees averaged about 5 or 6 hours for three successive days. Reporters estimate yields of over 100 cases for early plantings. Later plantings in higher altitudes show excellent prospects at this time. Not far enough along yet, however, to make full report. Light showers during the week together with cool nights and about normal day temperatures have been favorable for growth.

WASHINGTON-OREGON II—Growth of vines of both early and late Sweets very good. Slight aphid infestation in early Sweets but no appreciable damage. Moisture only fair. Yields on early Sweets estimated at 100 cases, late Sweets 110.

The following table shows temperature and rainfall data for the weeks ending June 4, 1939 and 1940:

| Reporting District | Temperature Departure from normal | | Rainfall | |
|--------------------|--------------------------------------|-----------------|----------------|----------------|
| | 1939 Degrees | 1940 Degrees | 1939 Inches | 1940 Inches |
| Maine..... | + 3 | + 1 | 0.2 | 3.0 |
| N. Y. I..... | + 1 | 0 | 0.3 | 0.5 |
| N. Y. II..... | + 2 | - 2 | 0.1 | 0.2 |
| N. Y. III..... | + 5 | - 1 | 0.1 | 1.4 |
| N. Y. IV..... | + 7 | + 1 | 0.1 | 2.0 |
| Mid.-At. I..... | + 4 | + 1 | 0.5 | 0.6 |
| Mid.-At. II..... | + 5 | 0 | 0.1 | 1.2 |
| Mid.-At. III..... | + 5 | - 2 | 0.2 | 1.2 |
| Ohio..... | + 5 | - 3 | 1.0 | 2.7 |
| Ind..... | + 5 | - 3 | 0.6 | 0.7 |
| Ill..... | + 5 | 0 | 0.2 | 0.6 |
| Mich..... | + 7 | + 2 | 0.5 | 0.5 |
| Wis. I..... | + 9 | + 3 | 0.3 | 0.1 |
| Wis. II..... | + 10 | + 4 | 0.3 | 0.1 |
| Wis. III..... | + 10 | + 5 | 0.4 | 0.1 |
| Wis. IV..... | + 10 | + 5 | 0.5 | 0.1 |
| Wis. V..... | + 10 | + 6 | 0.6 | T. |
| Minn..... | + 10 | + 7 | 0.6 | 1.8 |
| Iowa..... | + 9 | + 4 | 0.1 | 0.1 |
| Neb..... | + 8 | + 6 | 0.8 | 0.2 |
| Col..... | + 8 | + 6 | 0.5 | T. |
| Utah I..... | + 2 | + 9 | 0.7 | T. |
| Utah II..... | + 2 | + 9 | 0.7 | T. |
| Utah III..... | + 2 | + 9 | 0.7 | T. |
| Wyo..... | + 7 | + 6 | 0.4 | T. |
| Mont..... | - 3 | + 6 | 1.1 | 0.4 |
| Wash.-Ore. I..... | - 4 | + 4 | 0.2 | 0.1 |
| Wash.-Ore. II..... | 0 | + 2 | 0.4 | 0.2 |
| Puget Sound..... | - 1 | + 6 | 0.3 | 0.5 |

Bill Introduced to Repeal Louisiana Food Fee

A bill to repeal the registration fee requirements of the Louisiana Food, Drug, and Cosmetic Act has been introduced in the Louisiana legislature. The bill, Louisiana Senate Bill 169, provides that all charges for inspection, examination and investigations conducted under authority of the State Food, Drug, and Cosmetic Act shall be paid out of the general fund provided for the enforcement of the Act. Under the law at present a registration fee of \$5.00 per product is levied against manufacturers of foods, drugs, and cosmetics who distribute their products in the State.

Industry Approval Sought for Utah Peach Program

A proposed Federal marketing agreement and order under which interstate shipments of peaches produced in Utah can be regulated according to market conditions and requirements will be placed before the industry soon for approval, the Department of Agriculture has announced.

CHERRY CROP CONDITION REPORT

NEW YORK I—Cherries are developing rapidly in this district. Shucks are off, plenty of moisture, and there is every indication of a good crop.

NEW YORK II—There appears to be a good set of cherries. Some brown rot is showing up. A couple of the large growers estimate that there is going to be about 15 per cent less crop than last year.

NEW YORK III—Pollination and set of bloom is better than last year. No weather damage and so far no indication of any disease. Indications are for a crop heavier than last year.

NEW YORK IV—Set of cherries seems to be very satisfactory although a little early to estimate percentage of last year's crop. Present indications are that crop will be somewhat smaller. General conditions are good.

MICHIGAN I—No winter freeze damage. Believe enough good weather for good pollination. Some cool rainy days. Crop is 10 days late. Estimate crop nearly as large as last year in this immediate section.

MICHIGAN III—About 40 per cent of the blossoms have dropped the past week. The drop was due to cold, wet weather during blossoming period, which resulted in poor pollination. The bees were not out at all. This leaves the crop about 50 per cent of that harvested last year. The trees are in good condition, however, and it is possible for the cherries to develop extra size and thus get quite a little extra tonnage for the comparative set. Thus the crop may amount to as much as 60 per cent of last year.

MICHIGAN IV—Practically no winter freeze damage in the State. Pollination—Berrien county reported as spotty resulting from wet bloom period. Oceana and Traverse sections weather satisfactory, pollination apparently good. Set of bloom—heavy. Set of cherries—Berrien county, spotty. Crop not as heavy as originally anticipated. Oceana county full crop. Traverse area too early to tell. Damage from weather—none reported to date. Excessive rainfall finally ended. Estimate of crop—equal to last year's crop. General condition of trees—excellent in Berrien and Oceana counties. Some trees weakened by infestation of shot-hole in 1939 in Traverse area.

UTAH—No apparent freeze damage. Pollination poor to fair. Bloom set fairly good. Set of cherries spotted. No apparent damage from weather or disease. General condition of trees only fair.

WASHINGTON—Red cherries show generally good condition in this State with excellent bloom, normal pollination and set. Some sections of the state, however, report pollination only about 80 per cent due to rainy and wet weather at time of pollination. Crop may be somewhat smaller than last year.

Record Keeping Regulations Amended

The record keeping regulations issued under the Fair Labor Standards Act were revised by the Wage and Hour Division on June 4 to permit the maintenance of required records at a central record-keeping office on condition that such records shall be produced at the place or places of employment of any employees within 72 hours following notice from an inspector of the Division. The revised regulation

was promulgated to meet objections raised to the former requirement that where records are maintained at a central record-keeping office, certain abbreviated records shall be kept at the place of employment.

Indexes of Wholesale Prices and Employment

The index of employment in the canning and preserving industries for April, 1940, was 103.4, as compared with 87.3 during March, 1940. The employment index for all industries for April was 99.9, which is a decrease of .2 of a point from March.

The wholesale price index for all foods was 7.0 points lower than the all-commodity index on June 1, 1940. The all-food index was .1 of a point higher on June 1 than on May 25, while the all-commodity index was at the same point.

In the following tables, derived from Bureau of Labor Statistics Reports, the index for wholesale prices is based on the average for the year 1926 taken as 100 per cent. The indexes for employment and payrolls are based on the average for the years 1923-25 taken as 100 per cent.

| | Wholesale Prices | | | | | |
|----------------------|------------------|-----------------|-----------------|-----------------|----------------|-----------------|
| | June 1, 1940 | May 25, 1940 | May 18, 1940 | May 11, 1940 | May 4, 1940 | June 3, 1939 |
| All commodities..... | 77.8 | 77.8 | 78.5 | 78.4 | 78.9 | 75.7 |
| All foods..... | 70.8 | 70.7 | 71.7 | 71.6 | 72.5 | 67.5 |

| | Employment | | | Payrolls | | |
|------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| | April, 1940 | March, 1940 | April, 1939 | April, 1940 | March, 1940 | April, 1939 |
| All industries..... | 99.9 | 100.8 | 94.1 | 96.4 | 98.2 | 85.5 |
| Canning and preserving | 103.4 | 87.3 | 108.2 | 83.1 | 76.0 | 87.5 |

Vitamin B₁ for Plants Highly Experimental

Numerous recent articles dealing with the use of vitamin B₁ for the promotion of plant development have stimulated requests by members to the Raw Products Bureau for information on the use of this material. A new circular just issued by the New Jersey Agricultural Experiment Station brings together in a brief report information now available about the use of vitamin B₁ as a growth stimulant, and summarizes the authoritative experimental evidence relating to the practical value of vitamin B₁ as it applies to the general practice of plant culture.

The bulletin discusses the plants which do not respond, and importance of soil conditions and states that "most of the important agricultural plants, such as tomatoes, corn, wheat, legumes, and so forth, show a relatively high content of vitamin B₁ in their leaves when these plants are grown under favorable conditions in a substrate soil containing an adequate supply of the essential inorganic nutrient elements. This means, of course, that the roots of such plants may have available for growth and development an adequate store of vitamin without any supply from external sources."

In warning against frauds and excessive expectations the publication states that "although many reliable preparations of vitamin B₁ are now available, wholly unfounded assertions are frequently made, and reference to certain preparations as 'marvels of science' or 'miracle performers' should be discredited."

The bulletin further states that "it should be emphasized strongly that there is as yet not sufficient experimental evi-

dence upon which to base the use of vitamin B₁ in horticultural practices except on an experimental scale. Until much more information becomes available through the activities of trained investigators, it will not be possible to predict the ultimate usefulness of this or the many other growth-regulating substances in the general field of plant production."

The Association's Raw Products Bureau will be glad to supply copies of New Jersey Experiment Station Circular 399, "B₁: Its Use as a Growth Regulating Substance for Green Plants", to interested members on request.

Unsold Stocks of Canned Salmon

Unsold stocks of canned salmon on May 31, 1940, amounted to 1,120,878 actual cases, compared with 1,250,284 cases on April 30, 1940, and with 1,070,059 cases on May 31, 1939, according to statistics compiled by the Association of Pacific Fisheries.

These figures are based on reports from companies canning 99 per cent of the 1939 pack and 98 per cent of the 1938 pack. The following table gives details on unsold stocks:

| GRADES OR VARIETIES | Tails (1 pound) Cases | Flats (1 pound) Cases | Halves (8 dozen) Cases | Total May 31, 1940 Cases | Total May 31, 1939 Cases |
|--|-----------------------------|-----------------------------|------------------------------|-----------------------------------|-----------------------------------|
| | | | | | |
| Chinooks or Kings: | | | | | |
| Fancy Red..... | 1,837 | 2,420 | 7,033 | 11,290 | 36,420 |
| Standard..... | 410 | 3,810 | 2,155 | 6,375 | 11,153 |
| Pale..... | 673 | 138 | 84 | 895 | 1,603 |
| White..... | 141 | 11 | 2 | 154 | 329 |
| Puget Sound Sockeyes..... | 12 | 5,501 | 20,517 | 26,030 | 51,251 |
| Alaska Reds..... | 756,873 | 10,139 | 82,462 | 849,474 | 763,127 |
| Cohoos, Silvers, and Medium Reds..... | 20,588 | 8,297 | 26,981 | 55,866 | 79,650 |
| Pinks..... | 71,127 | 7,534 | 29,084 | 107,745 | 99,554 |
| Chums..... | 56,508 | 5 | 5,529 | 62,042 | 24,757 |
| Bluebacks..... | | | 540 | 540 | 1,209 |
| Steelheads..... | | 467 | | 467 | 928 |
| Totals..... | 908,160 | 38,322 | 174,387 | 1,120,878 | 1,070,059 |

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